

MITCHELL POSIN, ESQ.
601 South Tenth Street
Las Vegas, Nevada 89101
Tel. (702) 382-2222
Fax (702) 382-7496
Nevada State Bar No. 2840
Attorney for Defendant
JON DONYAE PONDER

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2005 DEC 20 A 10: 26

CLERK OF DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,
Plaintiff,
vs.
JON DONYAE PONDER
Defendant.

CR-S-05-0278-JCM(PAL)


DEFENDANT'S OBJECTION TO PRESENTENCE REPORT

CERTIFICATION: This Objection is timely filed.

COMES NOW the Defendant, JON DONYAE PONDER, by and through his attorney, MITCHELL L. POSIN, ESQ., and hereby objects to the Presentence Investigation Report prepared for the above-entitled case, and moves for a downward departure.

DATED this 16 day of December, 2005.

Respectfully submitted,


Mitchell L. Posin, Esq.
601 South Tenth Street
Las Vegas, Nevada 89101
Attorney for Defendant
JON DONYAE PONDER

The Defendant hereby objects to the following portions of the Presentence Report:

Defendant has four children, correctly listed in paragraphs 110-112.

In each of the above-referenced paragraphs, there is a reference to Defendant having or brandishing a weapon, or threatening a victim of a robbery with death, or both. Defendant has maintained throughout, and continues to maintain that he never carried a weapon during the robberies, and that he never threatened any victim with death as asserted in the report. Rather, he asserts that in each charged offense, he entered without a weapon, and asked for money without any explicit oral or written threat.

“[t]he parties agree to the following calculations of the Sentencing Guidelines: . . .

Defendant therefore submits that the additional levels added in paragraphs 24, 38, 45, 52, 59, and 66 should be removed.

Defendant asserts that he has never been positively identified as the robber in this matter other than by another individual in the car, and notes that he believes there is not currently a prosecution pending in this matter.

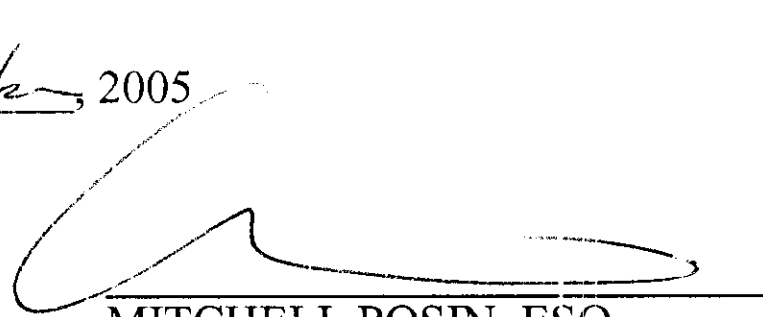
Defendant submits that the facts as stated in this paragraph are inaccurate. In fact, the alleged victim in this matter was not even female, but Defendant's male brother. Defendant anticipates that his brother will provide a sworn statement explaining this matter, and that the statement will show that he is not in fact the person involved in the attack on his brother.

Paragraph 146:

Defendant notes that the plea agreement calls for a sentence at the low end of the sentencing range. It is submitted that this is appropriate, insofar as the Government has filed a motion for downward departure, and on the basis that Defendant's crimes formed a very uncharacteristic .

Respectfully submitted,

DATED this 15 day of December, 2005

A handwritten signature in black ink, appearing to read "Mitchell Posin", is written over a horizontal line.

MITCHELL POSIN, ESQ.
Counsel for Defendant
JON DONYAE PONDER

1 MITCHELL POSIN, ESQ.
601 South Tenth Street
2 Las Vegas, Nevada 89101
Tel. (702) 382-2222
3 Fax (702) 382-7496
Nevada State Bar No. 2840
4 Attorney for Defendant
JON DONYAE PONDER

5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

7 UNITED STATES OF AMERICA,)

8 Plaintiff,)

9 vs.)

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10 JON DONYAE PONDER)

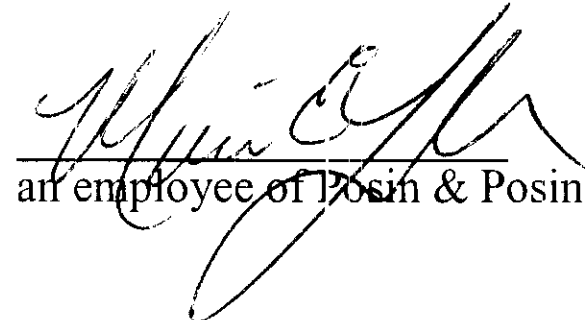
11 Defendant.)
12

13 CERTIFICATE OF SERVICE

14
15 I hereby certify that on the 30th day of March, 2001, I caused a copy of the foregoing
16 DEFENDANT'S OBJECTION TO PRESENTENCE INVESTIGATION REPORT to be mailed
17 in the United States mails, postage prepaid, or hand-delivered, to the following persons at their
18 last known address as listed below:

19 Assistant U.S. Attorney
20 William R. Reed, Esq.
333 Las Vegas Blvd. South
21 Las Vegas, Nevada 89101

U.S. Probation & Parole Officer
D. Russell Ellis
411 Bonneville Ave.
Las Vegas, Nevada 89101

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an employee of Posin & Posin
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